

RESOLUTION 2023-0144

Adopted by the Sacramento City Council

May 16, 2023

Fiscal Year (FY) 2023/24 Asset Forfeiture Master Plan

BACKGROUND

- A. The Sacramento Police Department receives a portion of proceeds from seized/forfeited assets pursuant to the Federal Comprehensive Crime Control Act of 1984, California Uniform Controlled Substances Act, codified at Health and Safety Code Sections 11469 through 11495, and joint agreements with other government agencies.
- B. Depending on the agency that secured the forfeiture, and applicable Federal and State legislation, the revenues are deposited into the following Externally Funded Program (EFP) projects:
 - 1. State Asset Forfeiture, California Health and Safety Code Sections 11469 – 11495
 - a. E11008000: Narcotics
 - b. E11008100: Narcotics (Burton Fund)
 - 2. Federal Asset Forfeiture, Federal Comprehensive Crime Control Act of 1984
 - a. E11008200: U.S. Department of Treasury
 - b. E11008300: U.S. Department of Justice
- C. The administration, budgeting, and expenditure of asset forfeiture funding is governed by the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies*, jointly issued by the U.S. Departments of Treasury and Justice in July 2018, and California Health and Safety Code Sections 11469 through 11495.
- D. The FY2023/24 Asset Forfeiture Master Plan is included as Exhibit A to this resolution.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1.

The City Manager, or the City Manager's designee, is authorized to implement the FY2023/24 Asset Forfeiture Master Plan.

SECTION 2.

The City Manager, or the City Manager’s designee, is authorized to adjust the expenditure and revenue budgets in the Asset Forfeiture EFPs (E11008000, E11008100, E11008200, and E11008300) by \$609,987.

SECTION 3.

The City Manager, or the City Manager’s designee, is authorized to adjust the allocations proposed in the FY2023/24 Asset Forfeiture Master Plan based on the operational requirements of the Sacramento Police Department.

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Exhibit A – FY2023/24 Asset Forfeiture Master Plan

Adopted by the City of Sacramento City Council on May 16, 2023, by the following vote:

Ayes: Members Guerra, Jennings, Kaplan, Maple, Loloee, Talamantes, Valenzuela, Vang, and Mayor Steinberg

Noes: None

Abstain: None

Absent: None

Attest:  05/26/2023

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

Exhibit A



FY2023/24 ASSET FORFEITURE MASTER PLAN

The Sacramento Police Department (SPD) respectfully submits its annual Asset Forfeiture Master Plan (Master Plan). The Master Plan includes an overview, revenue summary, proposed expenditure plan, and funding restrictions and guidelines.

OVERVIEW

The general intent of asset forfeiture and equitable sharing programs is to provide law enforcement with a mechanism to permanently deprive criminals from accessing assets and proceeds acquired through illegal activities. Asset forfeiture funding supports anti-drug/gang programming for youth and law enforcement needs through legal and equitable acquisition of assets.

Asset Forfeiture funds are distributed to law enforcement agencies as result of their investigations resulting from the seizure and subsequent civil forfeiture of tangible property or cash. The Asset Forfeiture Program (Program) is regulated by the Federal Comprehensive Crime Control Act of 1984, California Uniform Controlled Substances Act, codified at Health and Safety Code Sections 11469 through 11495(, and joint agreements with other government agencies. Depending upon the legal authority for forfeiture and the entities involved, the revenues are deposited into Externally Funded Projects (EFPs) (Fund 2703).

Federal and State regulations state that program funding be used by law enforcement agencies for law enforcement purposes and prohibit funds from being used to supplant (replace) resources that would otherwise be made available to existing programs. In addition, guidelines specifically prohibit budgeting for anticipated revenues. Specific details on the regulations pertaining to the expenditure of program funds are provided in the following pages.

REVENUE SUMMARY

Since the adoption of Resolution 2022-0147, the SPD has received \$609,987 in asset forfeiture disbursements and interest earnings:

Project Name/Number	Revenue¹
State Asset Forfeiture, Narcotics (E11008000)	460,134
State Asset Forfeiture, Narcotics – Burton Fund ² (E11008100)	88,693
Equitable Sharing – US Department of Treasury ³ (E11008200)	57,731
Equitable Sharing – US Department of Justice ³ (E11008300)	3,429
Total	\$609,987

1) Includes prior fiscal year interest earnings; all amounts rounded to the nearest dollar.

2) As required by California Health and Safety Code (HS) section 11489 (HS § 11489), of the 65 percent of forfeitted assets received by SPD, 15 percent must be deposited and maintained in a separate account and used for the “sole purpose of funding programs designed to combat drug abuse and divert gang activity [...] to cause the development and continuation of positive intervention programs for high-risk elementary and secondary school-age students.”

3) As prohibited by HS § 11471.2, SPD has neither requested nor received any portion of proceeds of federally-forfeited property unless the defendant was convicted in a related criminal proceeding for an offense for which property is subject to forfeiture pursuant to HS § 11470 or HS § 11488. A criminal conviction is not required in “any case in which the forfeited property is cash or negotiable instruments of a value of not less than forty-thousand dollars (\$40,000)” (HS §11471.2.)

PROPOSED EXPENDITURE PLAN

The SPD proposes the following funding allocations:

Allocation Category		Allocation Amount
Law Enforcement Operations and Investigations		213,056
Law Enforcement Training/Education, Travel and Per Diem		12,861
Law Enforcement and Public Safety Facilities		51,119
Law Enforcement Equipment		219,770
Drug, Gang, and other Prevention/Awareness Programs		24,488
Support of Community Based Organizations	<i>State</i> ¹	88,693
	<i>Federal</i> ²	-
Total		\$609,987

1) Mandated allocation; see HS § 11489.

2) There were no new US Department of Justice resources received since the adoption of the FY2021/22 Asset Forfeiture Master Plan

The allocation categories are generally defined as follows:

Law enforcement operations and investigations: Support of investigations and operations that further law enforcement goals or missions. Examples include, but are not limited to, reward money (annual dues paid to a crime tip organization or payment of a specific reward for information in a specific case); recruitment and advertising costs; agency accreditation or agency membership dues (but not individuals’ membership dues); asset forfeiture/equitable sharing account maintenance fees; payments to confidential informants; and “buy” money.

Law enforcement training/education, travel, and per diem: Training of investigators, sworn, and non-sworn law enforcement personnel in any area necessary to perform official law enforcement duties, provided that the training is essential to employees’ regular duties. Costs associated with travel and transportation to perform or in support of law enforcement duties and activities must be in accordance with the jurisdiction’s per diem policy and must not create the appearance of extravagance or impropriety. Examples include training/conference registration fees, tuition, speaker fees, or costs to produce training curricula in addition to employee per diem, lodging, and transportation costs.

Law enforcement and public safety facilities: Costs associated with the lease, purchase, construction, expansion, improvement or operation of law enforcement and public safety facilities. Examples include costs of leasing, operating, and furnishing owned and occupied facilities. Improvements to leased facilities are prohibited. Certain improvements or expansion projects require prior approval from the US Department of Justice, refer to the *Guide to Equitable Sharing State, Local, and Tribal Law Enforcement Agencies* (“the Guide”) for further information.

Law enforcement equipment: Costs for the purchase, lease, maintenance (including repairs or service agreements), or operation of law enforcement equipment for use by law enforcement personnel that supports law enforcement activities. Examples include furniture; file cabinets; office supplies; telecommunications equipment; copiers; safes; fitness equipment; computers; computer accessories and software; body armor; uniforms; firearms; radios; electronic surveillance equipment; vehicles (e.g., patrol and unmarked vehicles); and animals and animal-related expenses.

Drug, gang and other prevention/awareness programs: Costs associated with the law enforcement agency’s delivery of awareness programs. Examples include public service announcements, meeting costs, motivational speakers, and items used or distributed by the agency such as child identification kits and anti-crime items, literature or software. This does not include support of programs provided by community-based organizations.

Support of community-based organizations: Transfers of shared US Department of Justice equitable sharing funds to community based non-profit 501(c)(3) or (4) organizations whose stated missions are supportive of and consistent with a law enforcement effort, policy, and/or initiative. An agency may expend up to a total of \$25,000 of eligible equitable sharing funds annually to support such organizations. Examples include drug treatment facilities, job skills programs, or youth programs with drug and crime prevention education. Federal equitable sharing funds used in this manner are subject to subrecipient monitoring requirements contained in the Office of Management & Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Support of community-based organizations is not a permissible use of equitable sharing funds received from the US Department of the Treasury.

Under HS § 11489, 15 percent of the funds distributed to the state, local, or state and local law enforcement entities that participated in the seizure proceedings must be maintained in a separate account and shall be used for the sole purpose of funding programs designed to combat drug use and divert gang activity to cause the development and continuation of positive intervention programs for high-risk elementary and secondary school-age students.

Each of the programs identified below is geared towards high-risk elementary and high school students. These programs also include drug abuse and anti-gang activity education and have a proven track record of success. Also, all programs are collaborative and involve partnerships with educators, parents, sworn law enforcement officers, community-based organizations, and local businesses. Examples of the programs that have received funding in the past include:

Sacramento Police Foundation, Criminal Justice Magnet Academy:

The Sacramento Police Foundation (“Foundation”) is an independent 501(c)(3) charitable, non-profit organization that provides an opportunity for members of the public and businesses to assist in providing resources and programs that will help prevent and reduce crime while developing stronger relationships with the community. The Foundation provides support to the Criminal Justice Magnet Academies at John F. Kennedy, C.K. McClatchy, Hiram W. Johnson, Grant Union, and Inderkum High Schools.

The Criminal Justice Magnet Academy is a four-year program (9th through 12th grades), structured as a “school within a school.” These academies serve over 500 students per year and operate within a close family-like atmosphere, integrating academic and career technical education. The curriculum is law enforcement focused, coordinated with related classes and includes lessons on the dangers of drug abuse and gang involvement. In addition to the Foundation, the Academies are operated in partnership with the California Department of Education, Sacramento City Unified School District, Twin Rivers Unified School District, and Natomas Unified School District. The Academy has a proven track record of success that includes high graduation and college entrance rates.

Sacramento Police Foundation, Cadet Program: The Foundation, in partnership with SPD and local businesses, operates the Cadet Program (“the Program”) for teenagers and young adults, 14-21 years of age. The Program includes a curriculum that prepares youth for a future in law enforcement or other community service-based careers. Participants receive education on the various aspects of the SPD as well as the criminal justice system, community oriented policing, and other law enforcement-related subjects. Additional life-building skills such as drug and gang education, public speaking, résumé building, grooming standards, work ethic, and teamwork complete the curriculum. Cadets are required to perform community service in the Sacramento area which may include assisting with traffic control, security, decoy operations, and fingerprinting. Asset forfeiture funding will only be used to support teenagers, ages 14-18, participating in the program. Financial support for young adult participants will come from alternative sources.

Sacramento Police Foundation, Sacramento Police Activities League (SacPAL): SacPAL is program that serves over 100 high-risk elementary

and high school students each year by teaching positive citizenship principles through anti-drug and gang education and recreational and civic programs. Due to the COVID-19 pandemic, the number of youths that this program has been able to serve has decreased dramatically. The program consists of police employees and community members, and partners with the City of Sacramento Department of Youth Parks and Community Enrichment, Kops-N-Kids (non-profit 501(c)(3)), Positive Coaching Alliance, and local businesses. The programs administered by SacPAL include but are not limited to rugby and snow sports, such as skiing and snowboarding.

Kops-N-Kids Summer Camp: Since 1986, the Kops-N-Kids organization (Non-Profit 501(c)(3)) has partnered with local, state, and federal law enforcement agencies, local fire departments, educators, parents, local businesses and community volunteers to provide a week-long summer day camp for high-risk elementary and high school students in the Sacramento area. The Kops-N-Kids Summer Camp features curricula in gang resistance, drug awareness, and violence prevention. Approximately 300 participants have attended the camp each year.

Neighborhood Wellness Foundation: Funding awarded to Neighborhood Wellness Foundation has included support of youth mentoring, restorative civic engagement, educational field trips, and the Innovators Academy.

FUNDING RESTRICTIONS AND GUIDELINES

Depending upon the Federal or State legislation by which an asset is recovered, revenues are deposited into the following Externally Funded Program (EFP) projects:

State Asset Forfeiture

- 1) Narcotics Investigations, E11008000
- 2) Narcotics Investigations, Burton Fund, E11008100

Federal Asset Forfeiture

- 1) Department of Treasury, E11008200
- 2) Department of Justice, E11008300

The following are descriptions of each of the projects, accompanied by applicable guidelines:

State Asset Forfeiture, Narcotics Investigations (E11008000)

In accordance with California Health and Safety Code sections 11469 through 11495, and a memorandum of understanding with the Sacramento County District Attorney's Office, all property forfeited under the provisions of this code shall be distributed amongst the seizing agency(ies), the Sacramento County District Attorney's Office, the State of

California, and a private nonprofit organization comprised of local prosecutors that provides education and training for prosecutors and law enforcement in program ethics and proper application of relevant laws.

Guidelines for Use

- Funding must be used to support law enforcement efforts (HS § 11489(d))
- Funding shall not be used to replace or supplant local resources (HS § 11489(d))
- No sworn law enforcement officer's employment or salary shall be made dependent upon the level of forfeitures (HS § 11469(b))
- Forfeiture proceeds shall be maintained in a separate fund or account subject to the appropriate accounting controls and annual financial audits (HS § 11469(h))
- Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing (HS § 11469(e)).

State Asset Forfeiture, Narcotics Investigations, Burton Fund (E11008100)

In accordance with California Health and Safety Code sections 11469 through 11495, and a memorandum of understanding with the Sacramento County District Attorney's Office, 15 percent of funds distributed to the State Narcotics Investigations Project (E11008000) must be maintained in a separate account for youth programming dedicated to anti-drug/gang education. Expenditures must be approved by a panel consisting of the Chief of Police, Sacramento County Sheriff, Sacramento County District Attorney, and the Sacramento County Chief Probation Officer.

Guidelines for Use

- Funding must be used to support law enforcement efforts (HS § 11489(d))
- Funding shall not be used to replace or supplant local resources (HS § 11489(d))
- No sworn law enforcement officer's employment or salary shall be made dependent upon the level of forfeitures (HS § 11469(b))
- Forfeiture proceeds shall be maintained in a separate fund or account subject to the appropriate accounting controls and annual financial audits (HS § 11469(h))
- Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing (HS § 11469(e)).
- Funds shall be used "for the sole purpose of [supporting] programs designed to combat drug abuse and divert gang activity" (HS § 11489(b)).
- Funding "shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers" (HS § 11489(b)).
- Programs must cause the development and continuation of positive intervention programs for high-risk elementary and secondary-age students (HS § 11489(b)).
- Distribution of funding must be approved by a panel consisting of the Chief of Police, Sacramento County Sheriff, Sacramento County District Attorney, and the Sacramento County Chief Probation Officer (HS §11489(b)).

Federal Asset Forfeiture, Department of Treasury (child project: E11008200)

The authority for the Department of Treasury (DOT) to share federally forfeited assets with participating federal, state, and local law enforcement agencies is established by federal law (18 USC § 981(e), 19 USC § 1616a(c) and 31 USC §§ 9703(a)(1)(G) and 9703(h)). The sharing of forfeited assets is discretionary.

Guidelines for Use:

Permissible uses for this funding are outlined in the Guide (<https://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Documents/2018-Justice-Treasury-Joint-EQS-Guide-final-equitable-sharing.pdf>). This funding can only be used for law enforcement purposes, and the DOT will terminate the sharing of asset forfeiture funds with any law enforcement agency that does not directly benefit from these funds.

Examples of permissible uses include:

- Law enforcement operations and investigations
- Law enforcement training and education
- Law enforcement, public safety, and detention facilities
- Law enforcement equipment
- Joint law enforcement/public safety operations
- Contracting for services
- Law enforcement travel
- Awards and memorials
- Drug, gang, and other prevention or awareness programs, does not support community-based organizations
- Matching funds for law enforcement grants

Examples of impermissible uses include:

- Salaries and benefits for current, permanent law enforcement personnel, except:
 - Matching federal grants
 - Overtime for officers and investigators
 - Salary of an officer hired to replace an officer assigned to a task force
 - Specialized programs
 - First-year salary for a new law enforcement position
 - Temporary or contractual appointments not exceeding six months
- Use of forfeited property by non-law enforcement personnel
- Creation of endowments or scholarships
- Uses contrary to the laws of the state or local jurisdiction
- Personal or political use of shared funds
- Purchases of food and beverages, except emergency operations
- Extravagant expenditures
- Petty cash, secondary/sub-accounts and stored value cards
- Purchase of items for or the transfer of funds to other law enforcement agencies
- Community-based organizations
- Costs related to lawsuits

- Loans
- Money laundering operations

General Guidance:

- Funding must not be used to replace or supplant local resources
- Interest income on funding is subject to the same guidelines as outlined above
- Anticipated funding should not be budgeted
- Funding should not be retained unnecessarily
- All interest earnings must remain in the project

Federal Asset Forfeiture, Department of Justice (child project: E11008300)

Federal law allows the Department of Justice (DOJ) to share forfeited property with participating state and local law enforcement agencies (21 USC § 881(e)(1)(A) and (e)(3), 18 USC § 981(e)(2), and 19 USC § 1616a). Sharing is discretionary and not required.

Guidelines for Use

Permissible uses for this funding are outlined in the Guide

(<https://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Documents/2018-Justice-Treasury-Joint-EQS-Guide-final-equitable-sharing.pdf>). The DOJ will terminate sharing of asset forfeiture funds with any law enforcement agency that does not directly benefit from these funds.

Examples of permissible uses include:

- Law enforcement operations and investigations
- Law enforcement training and education
- Law enforcement, public safety, and detention facilities
- Law enforcement equipment
- Joint law enforcement/public safety operations
- Contracting for services
- Law enforcement travel
- Awards and memorials
- Anti-Drug education and awareness programs organizations
- Matching funds for law enforcement grants

Examples of impermissible uses include:

- Salaries and benefits for current, permanent law enforcement personnel, except:
 - Overtime for officers and investigators
 - First-year salary of a new law enforcement position
 - Contractual appointments not exceeding one year
 - Officers assigned to pre-approved specialized programs that do not generally involve traditional law enforcement functions
- Payment of salaries for existing positions
- Use of forfeited property by non-law enforcement personnel
- Payment of non-law enforcement expenses
- Uses contrary to the laws of the state or local jurisdiction

- Non-official government use of shared assets
- Purchases of food and beverages
- Extravagant expenditures

General Guidance:

- Funding must not be used to replace or supplant local resources
- Interest income on funding is subject to the same guidelines outlined above
- Anticipated funding should not be budgeted
- Funding should not be retained unnecessarily
- All interest earnings must remain in the project